



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

JUN 10 2015

Mr. Dennis W. Claussen
Nuclear Safety Engineer/Traffic Manager
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, MS A5-17
Richland, Washington 99352

Reference No. 15-0036

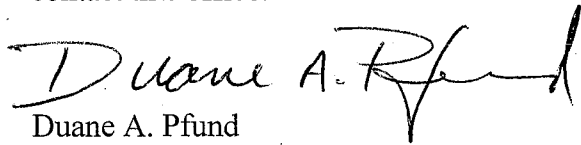
Dear Mr. Claussen:

This is in response to your February 20, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-185) with regard to the transportation of Class 7 radioactive materials. Specifically, you ask if Class 7 radioactive materials may be transported as "exclusive use" as defined in § 173.403 even when not required to be transported in this manner under the HMR. You indicate that the majority of your shipments are not required to be transported as "exclusive use" in accordance with § 173.441(b) as the materials do not exceed the dose rate limit in § 173.441(a), and have both a Transport Index and Criticality Safety Index of less than 50 for the conveyance.

Effective January 1, 2016, consignments may only be offered as "exclusive use" in accordance with the definition for "exclusive use" in § 173.403. On January 8, 2015, PHMSA published a final rule under Docket Number PHMSA-2013-0260 (HM-215M) [80 FR 1075] that revised the definition of "exclusive use" to align the HMR with the UN Model regulations. The definition was revised to clarify that "exclusive use" only applies when compliance is required by the regulations, such as when the limits of § 173.441(a) or (d) are exceeded.

However, consignments of Class 7 radioactive materials not meeting the criteria for "exclusive use" as defined in § 173.403 may be permissively offered under the same transport conditions provided that the consignment is not expressly declared or identified as "exclusive use." Declaring as "exclusive use" when not required by the HMR could lead to improper emergency response or handling. Therefore, if the criteria for "exclusive use" are not met, but the offeror elects to permissively apply the same transport conditions in full or part, it must not be formally conveyed as "exclusive use" to the carrier, consignee, or any other party in the transportation chain.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

A handwritten signature in black ink, reading "Duane A. Pfund". The signature is fluid and cursive, with the first name "Duane" being the most prominent part.

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Wiener
§173.441(a)
Radiation level
15-0036

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Friday, February 20, 2015 11:18 AM
To: Hazmat Interps
Subject: FW: Request for written letter of interpretation, Rev. 1

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Claussen, Dennis W [<mailto:dennis.claussen@rl.doe.gov>]
Sent: Thursday, February 19, 2015 4:31 PM
To: INFOCNTR (PHMSA)
Subject: RE: Request for written letter of interpretation, Rev. 1

From: Claussen, Dennis W
Sent: Thursday, February 19, 2015 1:10 PM
To: infocntr@dot.gov
Subject: Request for written letter of interpretation

US Department of Energy, Richland Operations Office
P.O. Box 550, MS A5-17
Richland, WA 99352

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825 Jadwin Ave.
Richland, WA 99352

To whom it may concern:

In the past, the US Department of Energy have made some radioactive shipments (such as Transuranic Waste shipments to Waste Isolation Pilot Plant and Low level waste shipments between DOE sites or commercial facilities) in Type A and Type B packagings as exclusive use. However most of these shipments are NOT required to be exclusive use per the Hazardous Material Regulations (the dose rate meet 49 CFR 173.441(a), Transport Index is less than 50 for the conveyance, and Criticality Safety Index is less than 50 for the conveyance). Can the DOE and their contractors invoke exclusive use requirements for shipments that the Hazardous Material Regulations do not required to be exclusive use? This implying that the shipping paper will state "exclusive use shipment."

Dennis W. Claussen
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"Get your facts first and then you can distort them as much as you please." Mark Twain